

REMARKS

Please reconsider the claims in the application in view of the remarks below. Claims 1 and 15 remain pending in the present application.

Non-Prior Art Rejections:

The Final Office Action rejected claims 1 and 15 under the first paragraph 35 U.S.C. §112 as failing to comply with the written description requirement. Without conceding to the propriety of the rejection, those claims are being amended to remove the phrasing “utilities, and vendor interfaces from the Internet” (*e.g.* claim 1, lines 25-26) as suggested by the Examiner. Withdrawal of the rejection is respectfully requested.

In addition, the Final Office Action rejected claims 1 and 15 under the second paragraph 35 U.S.C. §112 for indefiniteness. Without conceding to the propriety of the rejection, those claims are being amended to recite “for the life time of said user configuration” (*e.g.* claim 1, line 21) as suggested by the Examiner. Withdrawal of the rejection is respectfully requested.

Claims 1 and 15 are also rejected under 35 U.S.C. §101 because the Final Office Action alleged the claimed invention was directed towards non-statutory matter. Without conceding to the propriety of the rejection, claim 1 is being amended to recite: “a computer-readable storage medium” at line 6, “where said first means is stored on said computer-readable storage medium” at lines 7-8, “where said means for accessing is stored on said computer-readable storage medium” at line 14 and “where said second means is stored on said computer-readable storage me” at line 19. In addition, claim 15 is being amended to recite an “article of manufacture comprising a computer-readable storage medium having computer readable program code means embodied therein” at lines 1-2. As a result of these amendments, it is submitted that claims 1 and 15 each claim a computer-readable storage medium encoded with the claimed features

recited and have a defined structural and functional interrelationship between the claimed features recited and a hardware component. Withdrawal of the rejection is respectfully requested.

Prior Art Rejections:

The Final Office Action rejected claims 1 and 15 under 35 U.S.C § 103 as being unpatentable over Woodard et al. (US 7,032,011), in view of Boxall et al. (US 2003/0046678) and in further view of Tomoson et al. (US 6,931,523). Both claims 1 and 15 are independent. Without conceding to the propriety of the rejections (and reserving the right to continue to separately prosecute the claims as originally filed in a continuation application), applicants in this reply are amending independent claims 1 and 15 to recite “wherein, said first means for storing said user configuration parameters further ... overrides user choices according to predetermined parameters on said user configuration” (*e.g.* claim 1, lines 17-19), “and further monitors and records incremental changes and modifications to said user configuration for the life time of said user configuration and overrides user choices according to predetermined parameters of said user configuration” (*e.g.* claim 1, lines 20-22) and “migrates a current computer to a new computer ... and overrides user choices according to predetermined parameters of said user configuration” (*e.g.* claim 1, last six lines). Support for the amendments can be found at least on page 7, lines 8-22, of the originally filed specification.

According to MPEP §2142, a required prong in establishing a *prima facie* case of obviousness is that the prior art references when combined must teach or suggest all the claim limitations.

Woodard et al., Boxall et al. and Tomoson et al. do not disclose or suggest every element claimed in independent claims as amended. In contrast to “overrid[ing] user choices according

to predetermined parameters of said user configuration” as recited in the independent claims, Woodard et al., Boxall et al. and Tomoson et al. are each silent with respect to whether a user choice is overridden. The Office Action concedes that Woodard et al. fails to disclose or suggest further monitoring and recording user choices. The closest description in the remaining references cited by the Final Office Action appears to be installation script 64, described in Boxall et al. In describing installation script 64, Boxall et al. states that to accomplish “the installation without substantial intervention by the user, installation script 64 includes means for monitoring the system for user intervention prompts, means for analyzing any detected user intervention prompts and means for responding to the user intervention prompt” in paragraph 25 and “virtually all installation procedures will require virtually no invention by the user” in paragraph [0030]. Thus, the user is not given an opportunity to enter selections, since the installation is performed without human interaction. Without giving the user an opportunity to make choices, Boxall et al. certainly cannot override a user choice since the system described does not permit user choices and was intended to avoid users having to make choices.

Tomoson et al. is equally silent with respect to monitoring, recording and overriding user choices. In particular, Tomoson et al. is directed to “providing a known-good configuration of a computer” (Abstract, line1-2) and the only user interaction is described as when “the present configuration is determined to be improper, the user initiates a restore of a stored known-good configuration by actuating a non-interactive user input device at 204” in column 6, lines 20-24. Simply allowing a user to indicate whether to restore a previous configuration is not the same as allowing a user to render a choice and then override that choice “according to predetermined parameters of said user configuration” as recited in the claims.

For at least the above reasons, it is submitted that claims 1 and 15 are patentably distinguishable over Woodard et al., in view of Boxall et al. and Tomoson et al., alone or in combination.

Conclusion:

In view of the foregoing, this application is now believed to be in condition for allowance, and a Notice of Allowance is respectfully requested. If the Examiner believes a telephone conference might expedite prosecution of this case, applicant respectfully requests that the Examiner call applicant's attorney at (516) 742-4343.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven Fischman", with a long horizontal flourish extending to the right.

Steven Fischman
Registration No. 34,594

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
SF/DM/ech